



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 40-2259, 70-7015, 70-1257, 70-3098; NRC-2016-0184]

Eagle Rock Enrichment Facility and Lucky Mc Uranium Mill; Consideration of Approval of Transfer of Licenses and Conforming Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect and direct transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received, and is considering approval of, an application filed by AREVA, Inc. on July 25, 2016. The application seeks the NRC's consent to: the indirect transfer of control of special nuclear material License SNM-2015 governing the proposed Eagle Rock uranium enrichment facility (EREF) that may later be constructed and operated; the direct transfer of control of source material License SUA-672 for the Lucky Mc Uranium Mill; and the direct transfer of control of Export Licenses XSOU8780, XSNM3643, and XSNM3722. If approved, the transfer of License SNM-2015 would be from AREVA Enrichment Services LLC (AES), to AREVA Nuclear Materials, LLC. The transfer of License SUA-672 and Export License XSOU8780 would be from AREVA, Inc. to AREVA Nuclear Materials, LLC. The transfer of Export Licenses XSNM3643 and XSNM3722 would be from AREVA, Inc. to TN Americas, LLC. In its application, AREVA, Inc. also requests approval of its proposed conforming amendments to reflect the new names of the "AREVA Nuclear Materials, LLC" and "TN Americas, LLC," which would hold the licenses to be transferred if the NRC consents to the transfers.

DATES: A request for a hearing must be filed by **[INSERT DATE 20 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. Written comments may be filed by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2016-0184**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **E-mail comments to:** Hearingdocket@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Osiris Siurano, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-7827, e-mail: Osiris.Siurano-Perez@nrc.gov; Nuclear Regulatory Commission, Washington, DC, 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2016-0184** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2016-0184**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID **NRC-2016-0184** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

Pursuant to Section 184 of the Atomic Energy Act of 1954 (AEA), as amended, and title 10 of the *Code of Federal Regulations* (10 CFR) §§ 30.34(b)(1), 40.46, 70.36, and 110.50(d), AREVA Inc. has requested that the NRC approve several license transfers in connection with its planned internal reorganization involving the AREVA family of companies that operate in the United States under NRC licenses. Under the referenced regulations, no NRC license and no right thereunder to possess or utilize licensed material shall be transferred, assigned, or in any

manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission shall, after securing full information, finds that the transfer is in accordance with the provisions of the AEA, and gives its consent in writing.

AREVA, Inc.'s July 25, 2016, submittal (ADAMS No. ML16207A715) includes organizational charts showing the current overall corporate structure. The ultimate parent of the NRC-licensed entities is AREVA SA, a company organized under the laws of France. Under AREVA SA is AREVA NP SAS (also organized under the laws of France), which owns 100 percent of the shares of AREVA Inc. After the planned internal reorganization, AREVA SA would remain the ultimate parent and sole owner of AREVA NP SAS, and New AREVA Holdings SAS would be the new intermediate parent company of AREVA Nuclear Materials, LLC. Existing controls over access to classified or other protected information would remain in place. The submittal further states that the planned reorganization, if approved, would not result in any physical or operational changes relating to the licensed programs for any of the affected NRC licensees; and that there would not be any changes in organization, location, facilities, equipment or procedures that relate to the licensed programs under which the NRC licenses operate.

The Radiation Safety Officers would remain the same. No changes are being proposed to any authorized users, or to any other persons identified on the licenses as having responsibility for radiation safety, or who are otherwise authorized to use NRC-licensed material. AREVA Inc.'s submittal provides written notification to the NRC concerning its planned internal reorganization, which is scheduled to be implemented on October 1, 2016.

AREVA, Inc.'s July 25, 2016, submittal also includes a request that the NRC confirm that the proposed reorganization would not involve any transfer of control of Construction Authorization Number CAMOX-001 (for the MOX Fuel Fabrication Facility) that would need NRC's prior consent pursuant to 10 CFR 70.36. Specifically, the submittal states that AREVA Inc. owns a minority, 30 percent (30%), non-controlling interest in CB&I AREVA MOX Services, LLC (MOX Services), which holds CAMOX-001. AREVA Inc.'s ownership interests in MOX Services would be transferred to AREVA Nuclear Materials, LLC, but the submittal states that this proposed transfer would not affect CB&I's controlling 70 percent (70%) interest in MOX Services.

The July 25, 2016, submittal further reflects that the SNM-2015 license authorizes AES to possess and use source and special nuclear material at EREF, a proposed gas centrifuge uranium enrichment facility that would be located in Bonneville County, Idaho. The SUA-672 license authorizes AREVA Inc. to possess source material and byproduct material in the form of uranium mill tailings and waste at the Lucky Mc Uranium Mill in Fremont County, Wyoming. Though the Lucky Mc Uranium Mill license would be transferred from AREVA Inc. to AREVA Nuclear Materials, LLC, the submittal states that the new licensee would not make any changes to the current personnel, and therefore no new training would be required. Export License XSOU8780 authorizes AREVA Inc. to export up to a cumulative total of 11,000,000 kilograms natural uranium, in the form of uranium hexafluoride (UF₆) to ultimate foreign consignees in France, The Netherlands, Germany, and the United Kingdom, for enrichment up to 5 percent and for ultimate use in nuclear power reactors in EURATOM or return to the United States. Export License XSNM3643 authorizes AREVA Inc. to export up to 195 kilograms U²³⁵ contained in 975.0 kilograms uranium enriched to 19.95%, in solid form. The ultimate foreign consignee is South Africa. Export License XSNM3722 authorizes AREVA Inc. to export 147 kilograms U²³⁵ contained in 735 kilograms uranium, enriched to 19.95 percent, in solid form. The ultimate

foreign consignees are the Nuclear Research and Consultancy Group and the Mallinckrodt Molybdenum Production Facility, both in The Netherlands.

An NRC administrative review, documented in a letter to AREVA Inc. dated August 31, 2016 (ADAMS Accession No. ML16243A499), found the application acceptable to begin a more detailed technical review. If the application is granted, all of the above referenced licenses would be amended for administrative purposes to reflect the new corporate names.

If the July 25, 2016, request is granted, the NRC licenses would be amended to reflect the licensees' new names and reorganized ownership. Before such license amendments are issued, the NRC will have made the findings required by the AEA and the NRC's regulations. The required findings would be documented in a Safety Evaluation Report, and any necessary NRC orders would be issued. An environmental review of the proposed action will not be performed because, pursuant to 10 CFR 51.22(c)(21), license transfer approvals and associated license amendments are categorically excluded from the requirement to perform an environmental review.

III. Opportunity to Request a Hearing and Petition for Leave to Intervene

Any person whose interest may be affected by this proposed action and who seeks an NRC hearing regarding the proposed action must file a request for a hearing and a petition to intervene (petition) within 20 days after the date of publication of this notice, pursuant to 10 CFR 2.309(b)(1). Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at

<http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a petition is filed within 20 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. Additionally, the petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document.

As required by 10 CFR 2.309, a petition shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner’s right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner’s interest. The petition must also set forth the specific contentions which the petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or

fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with the NRC's regulations, policies, and procedures.

Petitions for leave to intervene must be filed no later than 20 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 20-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)-(iii).

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1), and may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of

the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter “petition”), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. System requirements for accessing the E-Submittal server are available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/adjudicatory-sub.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a petition. Submissions should be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by

e-mail to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 7 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a petition will require including information on

local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the Federal Register and served on the parties to the hearing.

VI. Opportunity to Provide Written Comments

Pursuant to 10 CFR 2.1305, as an alternative to requesting a hearing, persons may submit written comments regarding the license transfer applications. Any such comments should be submitted within 30 days from the date of publication of this notice, in accordance with 10 CFR 2.1305(b). The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the ADDRESSES section of this document.

Dated at Rockville, Maryland, this 1st day of September, 2016.

For the Nuclear Regulatory Commission.

/RA/

Craig G. Erlanger, Director,
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review,
Office of Nuclear Material Safety
and Safeguards.

